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NOV 13 2009

**United States District Court**U. S. DISTRICT COURT  
EASTERN DISTRICT OF MO  
ST. LOUIS**EASTERN DISTRICT OF MISSOURI****GREGORY MCKENNA,****Plaintiff****Vs.****THE ST. LOUIS COUNTY POLICE DEPARTMENT,****Case No. 4:09cv1113CDP****OFFICERS CHARLES BOSCHERT, KENNETH****WILLIAMS, 8 UNKNOWN AGENTS OF THE****FEDERAL BUREAU OF INVESTIGATION,****JURY DEMANDED****MARK KAPPELHOFF, APPLE INC., A-1****PRIVATE INVESTIGATIONS, TIMOTHY****BONINE, D'ANGELO AUTOMOTIVE,****Defendants**

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**MEMORANDUM IN SUPPORT OF PLAINTIFF'S RESPONSE TO DEFENDANT****APPLE INC. AND D'ANGELO AUTOMOTIVE'S MOTION TO DISMISS**

COMES NOW, ~~pro se~~ Plaintiff Gregory McKenna, and for his memorandum in support of his motion to respond, Plaintiff states as follows:

- (1) Defendants Apple Inc. and D'Angelo Automotive filed motions to dismiss Plaintiff's Complaint pursuant to Rule 12(b)(1) and Rule 12(b)(6) of the Federal Rules of Civil Procedure stating that this Court lacks jurisdiction over Plaintiff's claims and the Complaint violates Rule 8(a) of the Federal Rules of Civil Procedure.
- (2) In response, the Defendants' claim that Rule 12(b)(1) is violated because Plaintiff's claims are "fictitious" and "implausible" is unfounded and ignores scientific evidence stated in the Complaint. For dismissal of a moot claim, the Defendants must prove that there is no reasonable expectation to believe that the alleged wrongs stated in Plaintiff's Complaint will

be repeated. Dixie Fuel Co. v. Commissioner of Social Sec., 171 F.3d 1052, 1999

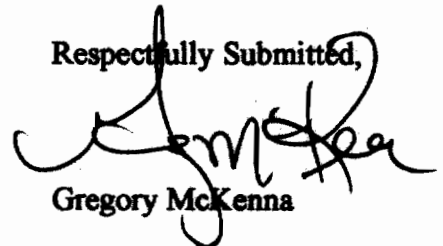
Fed.App.0111P, (C.A.6 (Ky.). Since the Defendants have failed to meet their burden and have not proved there is no reasonable expectation that the wrongs will not continue, dismissal under Rule 12(b)(1) is not warranted.

- (3) Additionally, the Defendants' claim that Plaintiff's Complaint should be dismissed under Rule (12)(b)(6) because it violates Rule 8(a) does not warrant dismissal since Plaintiff is required to set forth factual allegations respecting each material element necessary to sustain recovery for the 16 Counts against each of the 9 Defendants. Furthermore, the Courts have held that verbosity and repetition complained within the Complaint, standing alone, does not justify dismissal. Kaufman. et al v. Magid. et al, 539 F. Supp. 1088 (D. Mass. 1982).

Therefore, the Defendants' motion to dismiss should be ignored.

- (4) For the aforesaid reasons, dismissal is not warranted under Rule 12(b)(1) and 12(b)(6) of the F.R.C.P. and the Defendants' motions should be ignored.

Respectfully Submitted,



Gregory McKenna

Pro Se Plaintiff

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Beverly Hills, CA 90212

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### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 10 day of November, 2009, a true and accurate copy of Plaintiff's Emergency Motion for Preliminary Injunction will be forwarded to the Defendants, via first-class mail, postage prepaid, to:

- 1) Defendants the St. Louis County Police Department, Officers Charles Boschert, & Kenneth Williams, 7900 Forsyth Boulevard, Clayton, Missouri 63105;
- 2) Defendant the FBI, US Attorney's Office, 111 South 10<sup>th</sup> Street, #20.333, St. Louis, MO 63102;
- 3) Defendant Apple Inc. represented by Thompson Coburn LLP, Kathy A. Wisniewski & John W. Rogers, One Bank Plaza, St. Louis, MO 63101;
- 4) Defendant D'Angelo Automotive, 1104 North Jefferson, Florissant, MO 63031.

(NOTE: Defendants Mark Kappelhoff and A-1 Private Investigations have defaulted. Plaintiff's Motion for Default Judgment will be filed against the Defendants on October 27, 2009. An issuance of an alias summons is pending for Defendant Bonine. A copy of this motion will be sent to Defendant Bonine when an alias summons is issued.)

Gregory McKenna  
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Federal District Court

Attn: Clerk's Office

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St. Louis, MO 63102

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